

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT TAYLOR and U.S. POSTAL SERVICE,
DOWNTOWN CARRIER ANNEX, Los Angeles, CA

*Docket No. 00-900; Submitted on the Record;
Issued April 23, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether the refusal of the Office of Workers' Compensation Programs to reopen appellant's case for further consideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a), constituted an abuse of discretion.

The Board has duly reviewed the case record and finds that the Office acted within its discretion in refusing to reopen appellant's case for further consideration of the merits.

The Board's jurisdiction to consider and decide appeals from final decisions of the Office extends only to those final decisions issued within one year prior to the filing of the appeal.¹ As appellant filed his appeal with the Board on December 15, 1999, the only decision properly before the Board is the Office's September 9, 1999 decision denying appellant's request for a review of the merits of the Office's June 19, 1998 decision.²

Section 10.606 of Title 20 of the Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a specific point of law; or (2) advancing a relevant legal argument not previously considered by the Office; or (3) submitting relevant and pertinent new evidence not previously considered by the Office.³ Section 10.608(b) provides that, when an application for review of the merits of a claim does not meet at least one of these requirements, the Office will deny the application for review without reviewing the merits of the claim.⁴

¹ 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

² Appellant retired from the employing establishment effective June 1998.

³ 20 C.F.R. § 10.606(b)(2) (1999).

⁴ 20 C.F.R. § 10.608(b) (1999).

In his June 6, 1999 letter requesting reconsideration, appellant did not submit any relevant and pertinent new evidence not previously considered by the Office and did not argue that the Office erroneously applied or interpreted a specific point of law. Nor did he advance a point of law or fact not previously considered by the Office. Appellant merely stated his opinion that he had not recovered from his work injury and that the employing establishment failed to offer him a position as required by the Office's regulations. Therefore, the Office properly denied his request for reconsideration.

The September 9, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 23, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member